IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1822 of 2006

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1. Dr. Mahendra Kumar, Son of Haro Mahto, Resident of at +P.O.- Onama, P.S.- Shekhopur, District- Sheikhpura.
2. Om Shankar Prasad, Son of Sri Geeta Prasad, Resident of Village- Serranchak, P.S.- Begusarai, District- Begusarai.
3. Nirmala Sinha, Daughter of Late Aditya Kumar Lal, Resident of West Lohanipur, P.S.- Kadamkuan, District- Patna.
4. Durga Nand Choudhary, Son of Sri Wakel Prasad Choudhary, Resident of Village+P.O.- Champabati, P.S.- Sarsi, District- Purnea.
5. Dr. Sheo Ram Prasad, Son of Late Bhulatan Prasad, Resident of Village- Koily, P.S.- Makhdumpur, District- Jehanabad.
6. Jai Prakash Bhagat, Son of Late Ram Chandra Bhagat, Resident of Village- Kushmoal, P.S.- Bhargama, Via- Farbisganj, District- Araria.
7. Mrs. Sabana, Daughter of Syed Hasan Farooqui, Resident of New Azimabad Colony, P.S.- Sultanganj, Sandal Nagar, District- Patna.
8. Safdar Hussain, Son of Abdul Daiyan, Resident of Village- Piprahia, P.S.- Thakraha, District- West Champaran.
9. Sunil Sharma, Son of Gauri Shankar Sharma, Resident of Village- Bhabdepur, P.S.- Riga, District- Sitamarhi- 843302.
10. Umesh Kumar, Son of Sri Bindeshwari Prasad, Resident of Village- Maharajganj, Ward No.10, P.S.- Madhubani, District- Madhubani.
11. Yogendra Kumar Mishra, Son of Maha Nand Mishra, Resident of Village- Bhawa Bazar Jakhin, P.S.- Rafiganj, District- Aurangabad.
12. Dr. Indushekhar Jha, Son of Late Badri Narayan Jha, Resident of Village- Bangaon, Western Tola, P.S.- Bamgaon, District- Saharsa.
13. Dr. Ram Naresh Choudhary, Son of Deo Chandra Choudhary, Resident of Village- Kasrour (Basuli), P.S.- Ghanshyampur, District- Darbhanga.
14. Asha Kumari, Wife of Sri Arun Kumar, Resident of Village- Dwarika Bigha, P.S.- Harnauth, District- Nalanda.
15. Dr. Ram Chandra Singh Yadav, Son of Late Sri Barhu Singh Yadav, Resident of Village- Deorath, P.S.- Kako, District- Jehanabad.
16. Anil Kumar, Son of Sri Krishna Sharma, Resident of Village- Panduki, P.S.- Goh, District- Aurangabad.
17. Arvind Prasad, Son of Sri Ramdeo Prasad, Resident of Village- Imamganj, P.S.- Imamganj, District- Gaya.
18. Dr. Md. Ayub Hussain, Son of Late Md. Pajasul Hussain, Resident of Muhalla- Faizullah Khan (Near Khan Chowk), P.O.- Lalbagh, District- Darbhanga.
19. Nilam Kumari, Wife of Rambilas Zenith, Resident of B.N. Raiway Colony, P.O.- Manihari, District- Katihar.

.... Petitioner/s

Versus

1. The Chancellor, Universities of Bihar, Patna.
2. The Bihar State University (Constituent Colleges) Service Commission through its Secretary, Gokul Marg, North Shri Krishnapuri, Boring Road, Patna, having its Office at Bailey Road, Opposite Vikas Bhawan, New Secretariat, Patna.
3. The Chairman, Bihar State University (Constituent Colleges) Service Commission, Gokul Marg, North Shri Krishnapuri, Boring Road, Patna, having its Office at Bailey Road, Opposite Vikas Bhawan, New Secretariat, Patna.
4. The Patna University, Patna through its Registrar.
5. The Vice Chancellor, Patna University, Patna.

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6. The Magadh University, Bodh Gaya through its Registrar, P.S. Bodh Gaya, District- Gaya.
7. The Vice Chancellor, Magadh University, Bodh Gaya, P.S. Bodh Gaya, District- Gaya.
8. The Veer Kunwar Singh University, Ara through its Registrar, P.S.- Ara Nawadah, District- Bhojpur.
9. The Vice Chancellor, The Veer Kunwar Singh University, Ara, P.S.- Ara Nawadah, District- Bhojpur.
10. The B.R. Ambedkar University, Muzaffarpur, through its Registrar.
11. The Vice Chancellor, B.R. Ambedkar University, Muzaffarpur.
12. The L.N. Mithila University, Darbhanga through its Registrar.
13. The Vice Chancellor, L.N. Mithila University, Darbhanga.
14. The Tilka Manjhi University, Bhagalpur through its Registrar.
15. The Vice Chancellor, Tilka Manjhi University, Bhojpur.
16. The B.N. Mandal University Madhipura through its Registrar.
17. The Vice Chancellor, B.N. Mandal University Madhipura.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 1841 of 2006

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1. Dr. Sunil Kumar Roy son of Sri Lal Vendra Roy resident of Moh. - Balbhdrapur (Brahmsthan), P.O. + P.S. - Laheriasarai, District - Darbhanga.
2. Dr. Ramawtar Singh son of Gobardhan Prasad resident of village - Ambabigha, P.S. - Rajwara, P.S. - Atri, District - Gaya (Bihar).
3. Dr. Sheela Verma wife of Sri Devendra Kumar resident of C/o Devendra Kumar Jail Superintendent, Jamui, P.S. Jamui, District Jamui.
4. Dr. Sri Raman son of Late Mukteshwar resident of 1B/23, New Patliputra, P.O. + P.S. - Patliputra, Patna - 13.
5. Jai Rekha Ranjan son of Late Rajiv Ranjan resident of village - Kurkuri, P.S. - Phulwarisharif, District - Patna.
6. Avinash Prasad Singh son of Late Manna Singh resident of village - Rasha East, P.O. + P.S. - Bhagwanpur, District - Vaishali (Bihar).
7. Dr. Kumar Ramjee Prasad Singh son of Late Babu Deogati Singh resident of village - Kole - Manghauli, P.O. - Sonoura, P.S. - Mali, District - Aurangabad (Bihar).
8. Rajendra Prasad Yadav son of Sri Moti Lal Yadav resident of village - Bariarwa, P.O. Bhagta, P.S. - Bhoja Via - Madhepur, District - Madhubani (Bihar).
9. Dr. Kumar Amil son of Late Siya Ram Singh resident of village - Garhpar, P.O. + P.S. - Biharsharif, District - Nalanda.
10. Hemant Kumar Himanshu son of Sri Ram Janak Singh resident of C/o Sri Raghunath Singh Near Shiv Mandir, Pustakalya Lane, East Lohanipur, P.O. + P.S. Kadamkuan, District - Patna.
11. Ashok Kumar Singh son of Sri Julumdhari Singh resident of Flat No. 203, Amit Palace, Near Shivpuri Mandir, P.S. - Srikrishnapuri, District - Patna.
12. Iftikhar Arshad son of Mahmood Arshad resident of Mohalla - Chicktoli, P.S. - Arrah, District - Bhojpur (Bihar).
13. Shahid Akhtar Ansari son of Late Md. Rafique Ansari resident of village - Purani Bazar, P.O. - Jhajha, P.S. - Jhajha, District - Jamui.
14. Dr. Naseem Ahmad son of Abdur Rashid resident of village - Kalibagh, Bettiah, P.S. - Bettiah, District - East Champaran (Bihar).

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15. Nabin Chandra Pathak son of Late G.S. Pathak resident of village - Barauni - II, P.O. - Barauni Deorhi, P.S. - Teghra, District - Begusarai (Bihar).
16. Sumitra Kumari wife of Sri Anil Kumar Tiwari resident of village - Koransarai, P.S. - Koransarai, District - Buxar (Bihar).
17. Ashok Kumar son of Sri Yadubansh Rai resident of village - Keshopur, P.O. - Balu Karama, District - Vaishali (Bihar).
18. G.G. Ahmad Shadab son of Shed Mukhtar Ahmad resident of village - Azarvilla, Pokharia, P.S. - Begusarai, District - Begusarai (Bihar).
19. Shamshuddin Ahmad son of Md. Shahjada resident of village Badutola Thawe, P.S. - Thawe, District - Gopalganj.
20. Mohamad Ahmad son of Mr. Mohammad Alam resident of village - Bhagawata, P.O. - Tara Bariarpur, District - Begusarai (Bihar).
21. Kumari Neelima Verma son of Sri Shyam Bihar Verma resident of village + P.O. - Tara Bariarpur, District - Begusarai (Bihar).
22. Dr. Ratish Kumar son of Late Raj Ballava Das resident of at + P.O. - Simara Via - Jhanjharpur Bazar, District - Madhubani (Bihar).

.... Petitioner/s

Versus

1. The Chancellor, Universities of Bihar, Raj Bhawan, Patna.
2. The Bihar State University (Constituent) College Service Commission through its Secretary, Gokul Marg, North Shri Krishnapuri, Boring Road, Patna having its Office at Bailey Road, Opposite Vikas Bhawan, New Secretariat, Patna.
3. The Chairman, Bihar State University (Constituent Colleges) Service Commission, Gokul Marg, North Sri Krishnapuri, Boring Road, Patna having its office at Bailey Road Opposite Vikas Bhawan, New Secretariat, Patna.
4. The Patna University, Patna through its Registrar.
5. The Vice Chancellor, Patna University, Patna.
6. The Magadh University, Bodh Gaya through its Registrar, Bodh Gaya, District Gaya.
7. The Vice-Chancellor, Magadh University, Bodh Gaya, P.S. - Bodh Gaya, District - Gaya.
8. The Veer Kuer Singh University, Ara through its Registrar, P.S. - Ara through its Registrar, P.S. - Ara, Nawadah, District - Bhojpur.
9. The Vice - Chancellor, Veer Kuer Singh University, Ara, P.S. - Ara, Nawadah, District - Bhojpur.
10. The B.R. Ambedkar University, Muzaffarpur through its Registrar.
11. The Vice - Chancellor, B.R. Ambedkar University, Muzaffarpur.
12. The L.N. Mithila University, Darbhanga through its Registrar.
13. The Vice Chancellor, L.N. Mithila University, Darbhanga.
14. The Tilka Manjhi University, Bhagalpur through its Registrar.
15. The Vice-Chancellor, Tilka Manjhi University, Bhagalpur.
16. The B.N.Mandal University Madhepura through its Registrar.
17. The Vice-Chancellor, B.N. Mandal University, Madhepura.
18. The J.P. University, Chapra through its Registrar.
19. The Vice - Chancellor, J.P. University, Chapra.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 12463 of 2006

==========

1. Dr. Rajesh Kumar Tiwari, S/o Sri Anil Kumar Tiwari, R/o Mohalla- Satish

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Sarkar Lane, Masakchak, P.S.- Kotwali, District- Bhagalpur.
2. Dr. Mansoor Ahmad, S/o Sri Manjoor Ahmad, R/o Mohalla- Quaziwalichak, Urdu Bazar Road, Ahmad Manzil, P.S.- Kotwali, District- Bhagalpur.
3. Dr. Abha Kuamri D/o Dr. Kishori Saran Karamshil, R/o C/o Dr. K.K. Singh, Professors Colony, Patel Nagar, P.S.- Nath Nagar, District- Bhagalpur.
4. Dr. Shashi Kumar Sinha S/o Sri Raj Kumar Narayan Sinha, R/o Bari Bazar (Kalloo Bara), P.S.- Munger, District- Munger.
5. Prakhar Prakash S/o Sri Umesh Prasad Sinha, R/o MOhalla- Subhash Nagar, G.N. 3, P.S.- Munger, District- Munger.
6. Sunil Kumar Sah, S/o Basudeo Prasad Sah, R/o Mohalla- Purabsarai, P.S.- Munger, District- Munger.

.... Petitioner/s

Versus

1. The Chancellor, University of Bihar, Patna.
2. The Bihar State University (Constituent Colleges) Service Commission, through its secretary Gokul Marg, North Sri Krishnapuri, Boring Road, Patna, having its office at Bailey Road, Opposite Vikash Bhawan , New Secretariat, Patna.
3. The Chairman State University (Constituent College) Service Commission, through its Secretary, Gokul Marg, North Sri Krishnapuri, Boring Road, Patna , Having its office at Bailey Road, Opposite Vikash Bhawan, New Secretariat, Patna.
4. The Patna University, Patna , through its Registrar.
5. The Vice-Chancellor, Patna University, Patna.
6. The Magadh University, Bodh Gaya, through its Registrar, District- Gaya.
7. The Vice - Chancellor, Magadh University, Bodh Gaya, District- Gaya.
8. The Veer Kuer Singh University, Ara, through its Registrar, District- Bhojpur.
9. The Vice-Chancellor, Veer Kuer Singh University, District Bhojpur.
10. The B.R. Ambedkar University, Muzaffarpur, through its Registrar, District- Muzaffarpur.
11. The Vice-Chancellor, B.R. Ambedkar University, District- Muzaffarpur.
12. The L. N. Mithila University, Darbhanga, through its Registrar, District- Darbhanga.
13. The Vice- Chancellor, L.N. Mithila University, District- Darbhanga.
14. The Tilka Manjhi Univesity, Bhagalpur, though its Registrar, District- Bhagalpur.
15. The Vice-Chancellor, Tilka Manjhi University, District- Bhagalpur.
16. The B.N. Mandal University Madhepura, through its Registrar, District- Madhepura.
17. The Vice - Chancellor, B.N. Mandal University, District- Madhepura.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 6591 of 2007

==========

1. Mandakini Kumari Wife of Sri Keshari Nandan, Resident of Mohalla- Balbhadrapur, P.S. Laheriasarai, District-Darbhanga.

.... Petitioner/s

Versus

1. The Chancellor, Universities of Bihar, Patna.
2. The Bihar State University (Constituent College) Service Commission through its Secretary, Gokur Marg, North S.K. Puri, Boring Road, Patna.
3. The Chairman, Bihar State University (Constituent College) Service

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Commission, Bihar, Patna.
4. The Vice Chancellor, L.N.M. University, Darbhanga.
5. The Vive Chancellor, K.S. Darbhanga Sanksrit University, Darbhanga.
.... Respondent/s

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Appearance :
(In CWJC No.1822 of 2006)
For the Petitioner/s : Mr. Manish Kumar, Adv.
Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. Shivendra Kishore, Adv.
Mr. Yugal Kishore, Adv.
Mr. S.Iqbal Ahmad, Adv.
Mr. Yugal Kishore, Adv.
Mr. Vinay Kirti Singh, Adv.
Mr. T.N.Maitin, Adv.
Mr. Ashok Kumar Keshari, Adv.
Mr. Hemendra Pd.Singh, Adv.
Mr. Abhay Kumar, Adv.
Mr. Vivekanand Kumar, Adv.
Mr. Amber Nath Banerjee, Adv.
Mr. Partha Sarthy, Adv.

(In CWJC No.1841 of 2006)
For the Petitioner/s : Mr. Sujata Sanyal, Adv.
Mr. Satish Kumar Giri, Adv.

For the Respondent/s : Mr. Yugal Kishore, Adv.
Mr. Vinay Kirti Singh, Adv.
Mr. Hemendra Pd.Singh, Adv.
Mr. Shivendra Kishore, Adv.
Mr. S. Iqbal Ahmad, Adv.
Mr. T.N.Maitin, Adv.
Mr. Anil Singh, Adv.
Mr. Abhay Kumar, Adv.
Mr. Ambar Nath Banerji, Adv.

(In CWJC No.12463 of 2006)
For the Petitioner/s : Mr. Rajesh Kumar, Adv.
For the Respondent/s : Mr. Shivendra Kishore, Adv.
Mr. Yugal Kishore, Adv.
Mr. S.Iqbal Ahmad, Adv.
Mr. Yugal Kishore, Adv.
Mr. Vinay Kirti Singh, Adv.
Mr. Ajay Bihari Sinha, Adv.
Mr. Partha Sarthi, Adv.
Mr. Ashok Kumar Kesh, Adv.ari
Mr. Hemendra Pd.Singh, Adv.

(In CWJC No.6591 of 2007)
For the Petitioner/s : Mr. Ashok Kumar Choudhary I, Adv.
For the Respondent/s : Mr. Yugal Kishore, Adv.

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Mr. Partha Sarthy, Adv.
Mr. Shivendra Kishore, Adv.
Mr. S.C. Mishra, Adv.
Mr. T.N. Maitin, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 28-03-2018

Heard Mr. Manoj Priyadarshi, learned counsel for the petitioner in C.W.J.C. No. 1822 of 2006 and C.W.J.C. No. 1841 of 2006. None appears for the petitioners in the other two writ petitions. Mr. Rajendra Giri appears for the Chancellor of the Universities while Mr. Rajendra Prasad appearing for the Veer Kunwar University and Mr. Shailendra Kumar Singh for the Tilka Manjhi University. There is no representation on behalf of the other University who are though a party to the proceedings.

Since the petitioners in the four writ petitions pray for the same relief that they have been heard analogous and are being disposed of by this common judgment at the stage of admission.

Before proceeding to deal with the grievance raised, I can only observe that the petitioners herein are a batch of unfortunate litigants who having succeeded in a selection process yet have not been given the benefit thereof primarily for the default of the Selection Commission who made recommendations for their appointment to the Universities which now are situated in the State of Jharkhand. The recommendations made by the Bihar State University (Constituent

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College) Service Commission recommending the case of these petitioners to different University in the State of Jharkhand was not accepted by those Universities rather the recommendation was ignored. These petitioners after invoking the forum of Hon'ble Chancellor who expressed his helplessness in issuing any directions to the Commission for fresh recommendation in respect of any of the University situated in the State of Bihar, are before this Court and it is again unfortunate that these matters are being heard at admission stage after a lapse of almost 12 years.

Since the facts involved in each of the writ petitions, is the same, for the sake of convenience, I shall be referring to the pleadings in C.W.J.C.No.1841 of 2006 which contains several orders of this Court which have a bearing on the grievance raised.

Facts of the case briefly stated is that it is pursuant to an Advertisement No. 2 of 1997 inviting application from candidates for appointment of Lecturers in different subject in different Colleges/Departments of the University in the unified State of Bihar which also included areas now forming part of State of Jharkhand issued by the Bihar State (Constituent Colleges) Service Commission (hereinafter referred to as 'the Commission') that these petitioners applied and also succeeded in the process. Recommendations were made by 'the Commission' allocating them University. In between

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this period the Bihar Reorganization Act, 2000 came into force bifurcating the unified State of Bihar into now forming the State of Jharkhand with effect from 15.11.2000. Despite the bifurcation of the State of Bihar in November, 2000 yet, 'the Commission' made recommendation in favour of these petitioners to different Universities in the State of Jharkhand and which recommendation was rejected by the said Universities as a notification had already been issued prior thereto by the Chancellor of the University, State of Jharkhand that no recommendation of 'the Commission' would bind them. Such is the position reflecting from the Notification dated 10.9.2001, a copy of which is placed at Annexure-5. In such circumstances the petitioners approached the Chancellor of University, Bihar and who vide order present at Annexure-8 expressed helplessness in issuing any order to 'the Commission' in absence of any provision enabling him to do so in the University Law/statute. Identical order as present in Annexure-8 are also enclosed in other writ petitions. These facts are not in dispute.

It is in such circumstances that these petitioners came before this Court through different writ petitions but in the meanwhile certain developments had taken place and which have been very fairly placed on record by Mr. Priyadarshi, learned counsel appearing for the petitioner in C.W.J.C.No.1841 of 2006. One Vinod Kumar Singh,

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similarly aggrieved moved this Court in C.W.J.C. No. 3736 of 2006. In his case the Service Commission had recommended his name for Vinoba Bhave University in the State of Jharkhand. A coordinate bench of this Court vide judgment and order passed on 18.1.2006 at Annexure-9 to the supplementary affidavit allowed the writ petition with direction to the Commission to complete the process. Feeling aggrieved the State and University went in intra court appeal giving L.P.A.No.904 of 2006 and L.P.A.No.975 of 2006 and the Division Bench vide judgment and order passed on 6.5.2009 allowed the appeals to set aside the judgment and order of the Single Judge and consequently the writ petition was dismissed. The writ petitioner feeling aggrieved moved the Supreme Court but Special Leave Petition was dismissed on 01.04.2014. The order of the Division Bench and the Supreme Court are enclosed at Annexure- 10 and 11 respectively to the writ petition. It is taking note of such admitted circumstances that a coordinate bench of this Court vide order passed on 16.12.2010 directed for placement of this matter after disposal of the Special Leave Petition preferred by the writ petitioner.

In between, another set of developments has taken place and some of the candidates whose cases had not been taken to its conclusion by virtue of the vigilance case initiated on the selection process, came before this court for appointment on the basis of their

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recasting of results in C.W.J.C. No.13781 of 2003 and C.W.J.C. No. 6728 of 2004. The writ petitions were disposed of allowing them to seek their remedy before the Chancellor of University. Drawing strength from such order of remand that some others also came before this Court in C.W.J.C.No.17720 of 2008, C.W.J.C.No.20414 of 2010 and C.W.J.C. No. 9528 of 2010. The matter on being heard by coordinate bench was disposed of with liberty to the petitioner to represent the Chancellor. It is informed by Mr. Priyadarshi that on reconsideration of the grievance raised by the said petitioners, the claim was upheld by the Chancellor and on his orders, appointment have been provided to those petitioners who were applicant in the same process.

It is the submission of Mr. Priyadashi that the case of these petitioners is on a better footing for whereas these petitioners had succeeded in the selection process and also had a recommendation in their favour but it is only because the recommendation was made for the State of Jharkhand that the appointments eluded these petitioners whereas the petitioners Ramendra Kumar Singh, Nagendra Narayan Mishra, Dr. Laxmi Rani, Satendra Dutta Mishra etc who did not even make it to the select list, got relief under the order of the Chancellor referred to above. He further submits that the marks obtained by these petitioners are higher then those whose cases were considered by the

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Chancellor and appointment given. He thus prays that in the circumstances existing, the case of these petitioners may also be relegated to the Chancellor for fresh consideration. On the other hand, it is the argument of Mr. Giri that if such necessary essential facts have been overlooked by the Chancellor, the matter would be reexamined and any error infirmities would be corrected.

I have heard learned counsel for the parties and I have perused the records and I do abide by my opening observation that these petitioners have been subjected to unfortunate situation for even after having succeeded in a selection process, their appointments yet remain a paper transaction. Even though the argument of Mr. Priyadarshi in reference to the case of some of the appointees who did not even form the part of select list, were below the petitioner on marks but were given appointment under the orders of Chancellor does persuade me to dispose of the matter accordingly but the principles underlying judicial propriety and judicial discipline prohibits me from doing so and the reasons lie in the earlier orders passed in L.P.A. No. 904 of 2006 and L.P.A. No. 995 of 2006 whereby the Division Bench set aside the judgment and order of the Single Judge passed in C.W.J.C.No.3736 of 2006 filed by a similarly situated applicant who had been similarly recommended for appointment in a University now situated in the State of Jharkhand.

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Although the said applicant succeeded before the Single Judge but in appeal the judgment was reversed by the Division Bench and which opinion of the Division Bench stands affirmed by the Supreme Court.

As discussed, these orders have been fairly enclosed by learned counsel at Annexures- 9,10 and 11 of the supplementary affidavit and in such view of the matter and despite taking notice that some of the candidates have derived benefit on orders of remand, the same issue having attained finality in the order of the Supreme Court, prohibits this Court from recording any other opinion.

For the reasons so discussed and despite saving my sympathy for these petitioners, this Court has nothing to offer for the judgments recorded in the earlier round of litigation can only lead to an order of dismissal and accordingly the batch of writ petitions are dismissed.

(Jyoti Saran, J)

Bibhash

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30.04.2018
Transmission Date	NA

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